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February 23, 2023

Via ECF

The Honorable Mitchell S. Goldberg
United States District Court
Eastern District of Pennsylvania
17614 U.S. Courthouse, Courtroom 17-A
601 Market Street
Philadelphia, PA 10106

Re: *Eastman v. City of Philadelphia* (21-2248) and
Smith v. City of Philadelphia (22-5092)

Dear Judge Goldberg:

Per the Court's January 26, 2023 Order (Dkt. 49), the parties have met and conferred and respectfully submit this letter with respect to their positions on the following: 1) consolidation of *Eastman v. City of Philadelphia* (21-2248) and *Smith v. City of Philadelphia* (22-5092); 2) a proposed schedule for further discovery in *Eastman* and discovery in *Smith* (the parties discussed stipulating to the use of the relevant discovery taken in *Eastman* in *Smith*); and 3) the disposition of Defendant's pending summary judgment motion in *Eastman*.

1) Consolidation of *Eastman* and *Smith*

The City opposes consolidation because of the pending *Eastman* summary judgment motion and because it intends to file a motion to dismiss the *Smith* complaint. Plaintiffs are willing to await a ruling on the pending *Eastman* motion and the anticipated *Smith* motion before moving to consolidate. In the event the Court denies the *Eastman* summary judgment motion as to one or both *Eastman* Plaintiffs, Plaintiffs believe the cases should be consolidated because doing so will streamline the litigation process and avoid duplicative discovery.

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2) A Proposed Schedule for Discovery in the Cases

The City submits that neither *Eastman* nor *Smith* warrants discovery until the disposition of the pending summary judgment motion and the anticipated motion to dismiss. Plaintiffs maintain that all discovery in the *Smith* case could be completed in a 120-day period beginning either now or after a ruling denying the Rule 12 motion in whole or part, should the *Smith* complaint withstand dismissal. Plaintiffs submit that, regardless of the decision on the *Eastman* summary judgment motion, all discovery in *Eastman* should apply to *Smith*, should *Smith* withstand dismissal.

The City represents that it will send the supplemental discovery ordered in *Eastman* (Dkt. 49) to Plaintiffs on February 24, 2023.

3) The Disposition of the Eastman Summary Judgment Motion

The City intends to file a reply in support of summary judgment in *Eastman* on February 24, 2023. Plaintiffs may seek leave to file a surreply pending a review of the brief. The parties' positions on discovery in light of the pending *Eastman* motion are set forth above.

4) Settlement Mediation

In addition to the above, the parties discussed the potential referral of both actions to a magistrate judge for settlement purposes. The parties will revisit this discussion after the resolution of the motions in *Smith* and *Eastman*.

Respectfully Submitted,

/s/ Anne B. Taylor

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